HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Procedure and House Affairs

PROC • NUMBER 118 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, September 25, 2018

Chair

The Honourable Larry Bagnell

Standing Committee on Procedure and House Affairs

Tuesday, September 25, 2018

● (1105)

[*English*]

The Chair (Hon. Larry Bagnell (Yukon, Lib.)): Good morning. Welcome to the 118th meeting of the Standing Committee on Procedure and House Affairs.

Welcome, Mr. Cullen. Welcome, Ms. May. It's great to have you here.

We will continue on Bill C-76, an act to amend the Canada Elections Act and other acts and to make certain consequential amendments.

We're pleased to be joined by Stéphane Perrault, Canada's Chief Electoral Officer. He is accompanied by Anne Lawson, deputy chief electoral officer, regulatory affairs; and Michel Roussel, deputy chief electoral officer, electoral events and innovation.

For the information of members, we invited the Chief Electoral Officer of Ontario to appear today, but he declined due to prior commitments.

Thank you for coming. You probably have better attendance than some of us; you've been here lots of times. It's great to have you back.

Mr. Perrault, we'll let you make some opening remarks, and then we'll go on to some questions.

Mr. Stéphane Perrault (Chief Electoral Officer, Elections Canada): Thank you, Mr. Chair.

It's always a pleasure to be here and to support the work of the committee. Hopefully this morning my colleagues and I will be of assistance to the committee as it reviews Bill C-76.

I don't have any written remarks. I would like, though, to briefly touch upon three points before turning to questions.

The first point relates to the importance of this bill, in particular for the next election. The second point touches upon a technical amendment, which I did not bring to the attention of the committee when I last appeared, so I want to bring it to your attention. The third point relates to the work that we need to do to prepare the implementation of this bill and to be ready for the next election, as well as how that fits into the work of this committee, and of the Senate, of course.

On the importance of the bill, again, I don't want to repeat what I've said. Overall this is, in my view, a very strong bill, albeit not a perfect one. I've made some recommendations to improve that bill.

What I would say, though, is that the bill brings some long-term benefits to the electoral process, and it brings some much-needed short-term remedies to some of the concerns that many share regarding the integrity of the electoral process. Of course, that's a very important part of our mandate.

For the next election, given the environment, I very much look forward to having this legislation passed. It includes measures to deal with third parties and foreign influence. It also includes measures to deal with cyber-attacks and disinformation. It is an important piece of legislation from that perspective.

Also, it significantly reinforces the powers of the commissioner in terms of his investigations, so, from an integrity point of view, I think it's important to have this bill passed.

[*Translation*]

If there is one area where the bill failed, it is privacy. The parties are not subjected to any kind of privacy regime. I have pointed this out in the past and I want to mention it again today. The Privacy Commissioner has talked about it, and we are in agreement on this issue. I simply wanted to reiterate that this morning, without going into detail.

As for the technical amendment I talked about, the committee unanimously approved a recommendation that had been made by my predecessor. The recommendation pertained to situations where, as required under the Parliament of Canada Act, a by-election must be held late in the election cycle, shortly before a fixed-date election. It was agreed that it was inadvisable in such cases to hold a by-election, because these elections are generally cancelled when a general election is held. The committee had unanimously approved that recommendation, and the government agreed.

The bill includes a provision on this matter. Unfortunately, as it is currently drafted, in the case of a vacancy, a government could decide not to hold a by-election during the last nine months of the cycle, and on top of that, there would be an additional period of six months less a day. Thus, there could be a period of 15 months less a day without a by-election to fill a vacancy. I am pretty sure that was not the intention of our recommendation, nor is it what the committee or the government wants.

I noticed the flaw this summer. We brought it to the government's attention, but my role is to report to the committee. If you would like us to propose some new phrasing to correct the problem, I would be happy to do so.

[*English*]

The last point I want to touch upon relates, as I said, to preparation for implementing Bill C-76 and our readiness efforts, and how that fits with the work that Parliament needs to do.

As you know, I would have liked this bill to have been passed last spring. It would have given us more time to work toward its implementation.

When I met this committee, I indicated that we would need to start the summer, first of all, by having a two-track approach to the training and the guidebooks for poll workers so we're prepared. We have prepared guidebooks on the current legislation, as well as the potentially amended legislation. We have not printed that material, of course, and we may adjust it further as the committee and Parliament do their work. However, that's been done.

The other part, and perhaps the more challenging part, relates to the IT systems. The bill would affect, at a minimum, 20 of our IT systems, some in small ways and some in large ways. What I said last spring was that we would spend the summer completing the work that we have to do on our side with our systems, and then start in the fall to look at the coding for the new system changes for Bill C-76. That's largely what we've done.

As you may recall, I indicated that we were then building a new, much more secure data centre, which is really the bedrock of our election delivery. That data centre has been built successfully and we've done the migration. It was scheduled for September 1. We did it on September 15, so it was a two-week delay, which is not bad. We're fine-tuning that, but it's going quite well. We still have a bit of IT work to do, but overall we are progressing well.

We now turn our attention to this bill. We will need a window to do some of that coding and then some of that testing. The coding window is, essentially, between October 1 and early December, when the House rises. That's when we need finality, basically, in terms of how this bill will impact our systems, because after that we go through a very rigorous testing in January, and then we do bug fixing. Then we roll out the systems in a field simulation in March.

That's our timeline to make sure that everything works well for this election. That may be useful for the committee to understand in terms of the time that we need.

I have one more point, which is not directly related to Bill C-76. Perhaps if there's time at the end I'd like to come back to it. That's the issue of electronic poll books, which we have discussed before this committee a number of times. There were some changes just last week in our plans in that regard. If there are questions I'll be happy to answer them, and perhaps at the end, if there's time, I could speak to the changes that we're making to that project.

● (1110)

The Chair: Maybe you should do that now, if you could do it briefly.

Mr. Stéphane Perrault: Sure. You will recall—and some of you here were not members of this committee—that over the last couple of years we talked about introducing electronic poll books, which is not electronic voting and it's not electronic tabulation, but it's essentially the electronic lists and the poll books that assist the poll workers in processing voters.

We planned to do that because it improves the integrity of the record-keeping. It reduces the errors and speeds up the process, especially at advanced polls. It's one of several ways in which we're improving services for the future.

We've seen that kind of technology being used increasingly at provincial levels. In order to roll that out for the next election, I need to be satisfied that the systems meet the highest standards in terms of security. You will remember that the Communications Security Establishment Canada issued a report in 2017 saying that the threat to elections is highest at the federal level, and that's not surprising. Our standards are commensurate to that threat, and we've been working with them to set those standards.

In order to roll out that technology at the next general election in any significant way, I need to be ready to pilot that technology in by-elections this fall. Last week, despite a lot of hard work that has gone into this, I was not satisfied that the technology was sufficiently secure and mature to be rolled out in a by-election. So, it will not be piloted in a by-election.

I remain absolutely convinced that this is the way of the future, but it will happen only if and when I'm satisfied that it is robust and flawless. Those are the conditions under which we set out to do this project, and those are the conditions under which we are pursuing that project.

This has implications for the general election in terms of the rollout. We planned to roll out that technology in 225 advanced polls. That will not happen.

Will we do some testing in some polls? I think we still have to explore that. I am still committed to the future of that vision in terms of serving electors and assisting poll workers, but I have to be satisfied, at this point in time, a year ahead of the election, that it will succeed and that it meets the highest standards; and at this point I don't have that degree of assurance. So I have pulled the plug on this for the by-elections. That will have impacts for the general election.

It has no bearing on this bill, but the bill does provide long-term flexibility to better leverage that technology. The bill and that project have some connection and, as I said, I remain convinced of a future. It just has to be ready, to be safe and flawless, as I said.

The Chair: Thank you very much.

[*Translation*]

We will now move on to questions and comments.

Mr. Simms, go ahead.

[*English*]

Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.): Thank you, Chair.

Thank you to our guests. I have a very important question off the top. How was your summer?

Mr. Stéphane Perrault: The summer was hot.

Mr. Scott Simms: All right.

There are two overarching issues I wanted to deal with when it comes to the time complexity of going through with the major measures. One was with the commissioner moving office, as well as administrative penalties. I'll get to that in a moment.

First, I want to follow up on some of what you said: October to December, that is the window that is required for the coding mechanism. Are you confident that within that window you can get that done and ready for the next election?

Mr. Stéphane Perrault: I am confident that within that window I can get that done, yes.

Mr. Scott Simms: But you need to start in October.

Mr. Stéphane Perrault: I do need that.

Mr. Scott Simms: And starting in the new year would not be advantageous.

Mr. Stéphane Perrault: Once we do the coding, then we do what we call "user acceptance" testing. The users of the system test it. Once that is done, we integrate that into the other system. Then we do a second round of testing. That has to take place in January.

Mr. Scott Simms: Okay. Thank you.

Now, poll books are also very interesting. Thank you for bringing that up as well.

I'm glad we dealt with that at the beginning, Mr. Chair. Thank you.

You talked about the future, improving integrity, and all that stuff. I won't reiterate what you said. Unfortunately, you won't be able to test-run it through the by-elections that are coming up soon. You said it's not mature enough yet, at this point.

Once you have this and are confident to test it, wouldn't you require the approval of both houses to do that?

● (1115)

Mr. Stéphane Perrault: I do not, because it does not detract from the rules in the act. It is currently allowed. It provides for mechanisms of crossing names on a list, or writing down names of people who need to register at the polls. Everything that they would be doing using the poll book would be in accordance with the rules, even under the current legislation, notwithstanding Bill C-76.

Mr. Scott Simms: Thank you very much for that. I appreciate the clarification.

Let me go back now to the other two issues. First, the commissioner: this was a huge issue for us in Bill C-23. We thought that the commissioner being taken out of the building, the atmosphere, of Elections Canada head office and brought over to the Director of Public Prosecutions was a flaw. We thought it was flawed because they weren't surrounded by the information they needed to do a proper investigation—ROs across the country and all the information coming in from across the country. It must be very hard to be in touch with all ridings across the country if you're out at DPP.

However, in this bill, are you satisfied with the move? I believe you said you were. As well, what will be the relationship now between the commissioner and the Director of Public Prosecutions?

Mr. Stéphane Perrault: In terms of the bill, as I've said before, I think it's a good change. We're not physically moving yet. Whether or not that'll happen, we'll see down the road, but we are legally becoming one team—again, with the continued very clear separation and independence of the commissioner in terms of how he conducts his investigations. I want to reassure everybody on that. That line remains a firm line.

What it does facilitate is a better understanding of how we interpret the legislation and the challenges we have when we provide guidance to parties and candidates. Most importantly, there's the exchange of information on political financing—for example, the returns and so forth. It makes for an easier working relationship.

Mr. Scott Simms: Right. So for any investigation that's going on, can the returning officers and any other pertinent election officers from the past election be brought in, such as poll clerks or deputy returning officers?

Mr. Stéphane Perrault: Quite frankly, it's mostly been with headquarters in terms of having access to the register information and having access to the political financing information. That's the key. That's the most volume. That's the centre of it.

In terms of his relationship with the DPP, I think I'd rather let him speak to that. There is a change in the bill, if I'm not mistaken, that he would have the power to lay charges.

Mr. Scott Simms: Right. That's one I want to get to.

Mr. Stéphane Perrault: Then the DPP would continue to carry the prosecution. The DPP would continue to have responsibility for actually conducting the prosecution, but the commissioner would be the one deciding whether to lay charges or not.

Mr. Scott Simms: And the Director of Public Prosecutions goes forward with that charge to see it to its end.

Mr. Stéphane Perrault: Correct. I believe he would have the authority to drop the charges, but that's quite unusual.

Mr. Scott Simms: I believe Ms. Lawson is agreeing with you.

I just quickly want to go to administrative penalties, because I think this is long overdue. I think we've taken it upon ourselves to do this. I'm not patting us on the back here; I'm just saying that it was recommended by you over a period of time to keep it out of criminal prosecution, obviously.

Are you satisfied with what's in the bill, in the sense that there are some sections in here...? Obviously, you have a maximum fine of $1,500, or, if it's a corporation entity, up to $5,000. But there's also something in there that if you go beyond sections 363 and 367, which talk about contributions or contribution limits, then you can go even further and charge even more if the contribution in question is substantial.

Mr. Stéphane Perrault: Yes.

Mr. Scott Simms: But this is not part of criminal prosecution.

Mr. Stéphane Perrault: This is something that Elections Canada would not administer. It would be the commissioner who would administer that. He would exercise the discretion in that regard.

The important point is not so much the amount. The vast majority of non-compliance under this act is regulatory and of a fairly minor nature. They need to be sanctioned in some way, but they do not warrant the criminal process. There's an imbalance between the nature of the conduct, mostly by campaigns and volunteers, and the nature of the penalty in the criminal context. So that's a major improvement to the bill.

Mr. Scott Simms: I agree that it's not the amount, but there's a lot of judgment being imposed here as to how much it should be, and so on and so forth. Don't you find this to be overly prescriptive?

Mr. Stéphane Perrault: No. We can revisit that in the future, but I believe that's the right approach to begin with. If I'm not mistaken, if the penalty is over $1,500, there is a power for an appeal to be made to the Chief Electoral Officer to review.

● (1120)

Mr. Scott Simms: Okay.

I have about 20 seconds left. I'm going to throw up a general question. If you can answer it very quickly, I'd be highly impressed.

The future electors, the registry, how are you doing with that?

Mr. Stéphane Perrault: Actually building the registry is not that complicated. A registry of people is a registry. Mr. Roussel will correct me if I go wildly off on this, but fundamentally this is not a challenge from the point of view of the creation of a registry. The challenge will be to bring people on board. The level of effort that we will deploy before the election will be limited because of the time we have. We will be focusing mostly on 17-year-olds who will be turning 18, and over time we'll build that, but the actual creation of the registry is not a sophisticated undertaking.

The Chair: Thank you very much, Mr. Simms.

Now we'll go to Mr. Nater.

Mr. John Nater (Perth—Wellington, CPC): Thank you, Mr. Chair.

Again, thank you to Mr. Perrault and our guests for joining us today. It's always nice to hear from our CEO and get comments from Elections Canada.

If I have time at the end, I'm going to leave my last minute or so to Ms. May, if that's acceptable to the committee.

I just wanted to touch on a couple of things you mentioned during your comments, and then I also had a question about your perspective on the Ontario changes, if you want to give some thought to that. We hoped to have the CEO of Ontario here. It may not happen before we complete our work with this bill, but we would like some perspective from you on that as well. I'll get to that as we go on.

You mentioned 20 or so IT systems that Elections Canada will have to update and change to implement this bill. You'll certainly appreciate the testing that must be undertaken whenever you do anything with IT systems. I know in government we've seen far too many examples of IT systems gone awry throughout my short tenure here. I'm curious whether those 20 IT systems are prioritized: those that must be updated in order to fully implement this bill versus those that may be left until after the 43rd election, or is it a case that all 20 must be updated at the same time? Is there some prioritization there?

Mr. Stéphane Perrault: Absolutely. That's the analysis that was conducted over the course of the summer. I'll give you an example. Some components of systems we will not touch in the short term, but we will in the longer term. For example, the system for the third party reports is being changed considerably. We can publish a PDF version of a third party report online. It will be searchable, but you would search within the report and you'd have to search another report if you wanted to do cross-references for contributions, for example. Down the road, we absolutely want to have a more useful tool, a more powerful tool, whereby people can search databases and not just within returns. So we've had to make that compromise to make sure the other changes are done in time.

I have other examples, but yes, that's the kind of analysis we've done to make sure we can deliver this bill, even if a better version of some of the systems is coming after the election.

Mr. John Nater: Thank you very much.

Now, as you know, this bill has a somewhat unusual coming into force provision: six months or a written indication from the CEO. I think Parliament Hill has a rumour mill that is in full swing 365 days a year. There's always the implication that there may be a spring election or a snap election at some point. If an election is called in the spring, and this bill passes by December, say, is there a date throughout the spring where you would not go ahead with the coming into force provision within that six-month window? Is there a drop-dead date? I guess that is what I'm asking.

Mr. Stéphane Perrault: Well, let me backtrack a little. I want to reassure Canadians and MPs here that we are always ready to deliver the last election. Whenever we work on improvements, whether it's within the boundaries of the law as it exists or other legislation, we always have an election that's sort of ready. That's the election we use for by-elections. That's the set of services and tools we use for by-elections between general elections until we improve systems and make tweaks, in some cases, and they're tested and rolled out. So we cascade the improvements.

In terms of this bill, as I said, our target for readiness to deliver the election is April. It's not September; it's April. Before that, we have an election in the works, which is the last election, and we're working on improvements for this election. But to meet the April target, we need to do some testing, starting in January. That was my point. There's a certain amount of runway that you want to be prudent about when you make those kinds of changes.

● (1125)

Mr. John Nater: Over the summer, you gave an interview on *Power and Politics*, and you mentioned the importance of multi-party consensus on a bill such as this. Is that still your view?

Mr. Stéphane Perrault: It's always been my view that electoral legislation benefits from cross-party support. That's why I was reluctant in the spring to say, "What is the drop-dead date?" I am quite frankly stretching it. I was hoping for an April or spring piece of legislation. I'm doing my best to accommodate the work of Parliament to work together and improve this legislation.

Mr. John Nater: I'd like to move on to questions about Ontario elections. As you know, there was an election in June. They undertook a fairly extensive update of their elections law, including rules specifically related to third parties.

I'm curious to have your thoughts on that legislation in terms of how it was rolled out, how it may have been implemented during the election campaign, and then any lessons learned you may be able to apply to this. That's my last question. After that Ms. May will have the last word.

Mr. Stéphane Perrault: I thought you were going to go into the technology aspect of the Ontario election.

Mr. John Nater: We can go into that in the future. We have questions about that too.

Mr. Stéphane Perrault: On the third party, there was some catching-up to do. The third parties had had a very significant impact in Ontario provincial elections in the past, due to the high number of unions in particular. They had to do some catching-up.

The assessment of those rules is something that takes a bit of time. I have not had the chance to speak to Mr. Essensa on how satisfied he is with how the rollout went. I'll reserve comment on that, because I would want to speak to him first. I have not heard any major concerns.

I believe the proposals in this bill are important—that they expand considerably. What we've seen in the past is that third parties in Canada no longer just advertise. It appears they do various kinds of campaigning. It's important to expand the regime to make sure it covers this and tries to provide a level playing field that includes more than advertising.

The Chair: Thank you.

Ms. May, you have one minute.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you very much. Thanks, John.

I haven't addressed you since your official designation as our Chief Electoral Officer. I want to congratulate you personally. I think you're a wonderful choice.

I'm very worried about timelines. I would have liked to see C-33 move ahead when it was at first reading in December 2016. Now we have C-76. I generally support this legislation. It's in the House. We're going to go to clause-by-clause soon, and then it goes to the Senate and royal assent.

I know you're doing a lot of due diligence preparedness as though this was going to become the law, but I'd like you to give us a sense of when royal assent is necessary so that you can actually be ready for an election in the fall, assuming we stick to our fixed election date under the legislation and don't have a snap election. What's the drop-dead date for royal assent?

Mr. Stéphane Perrault: Answering that question is not as straightforward as it seems. As I said, my concern is having a fixed IT environment in December, so that we can complete the system changes. Not everything in this legislation affects our IT systems, though. I'm reluctant to say that the Senate should not contemplate any changes past December, but we have to be careful as to what those changes are and whether they would impact our systems.

Sometimes the changes may impact the need to do some public awareness. I'm thinking about third parties. It's a major change to how they operate. Some of the new rules contemplate that they will have to report back on earnings and contributions moving backwards.

It's very difficult to turn around on a dime and try to educate the world about the pre-writ spending limits for third parties when they're not really part of this conversation. They're not in the House and they are not necessarily aware that these changes are coming. It's not just the IT systems. It's a nuanced answer that I'm giving here.

The Chair: Thank you.

We'll now go on to Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Chair.

Welcome.

You painted a scenario in the spring, in which delays would restrict what you could implement. In other words, there is some sort of a shopping list that comes out of a bill like C-76, and the longer it takes to be passed, presumably the less you can actually implement for the next election. Is that a fair thing to say?

Mr. Stéphane Perrault: A fair amount of discretion is given to the Chief Electoral Officer in this legislation. I've said that I will not be able to leverage some of that discretion to improve services in the next election. I could give you an example.

● (1130)

Mr. Nathan Cullen: We're almost two years past when C-33 was first introduced. Imagining a scenario in which this bill had passed in the spring, is it fair to say you would have had that discretion and would have likely implemented all the aspects of C-76?

Mr. Stéphane Perrault: Bill C-33 was much narrower in scope. It did not provide a whole lot of discretion to the Chief Electoral Officer, so what I'm looking at are largely mandatory aspects, and I have no issue with those. There was some discretion but not a whole lot. For example, they were talking about the possibility of doing mobile advance polls for remote communities.

Mr. Nathan Cullen: Right.

Mr. Stéphane Perrault: That has implications for our systems and for the planning of the polls, so we were not going to leverage that for the next election, at least not in a significant way.

Mr. Nathan Cullen: Right. So that would be an example of how the delay in this legislation.... I represent, as you know, a vast rural constituency. Mobile advance polls would help enfranchise those electors who face multiple barriers to getting out to the polls. That will not happen for 2019, or it will happen in a limited way.

Mr. Stéphane Perrault: In a very limited way.

Mr. Nathan Cullen: Okay.

I want to move on to some of the changes we hope to see. You've recommended in the past that political parties fall under privacy legislation. Is that correct?

Mr. Stéphane Perrault: That's correct.

Mr. Nathan Cullen: What kinds of information do political parties gather about Canadians?

Mr. Stéphane Perrault: That's a good question. I don't know the full answer to that question.

Mr. Nathan Cullen: Do you have any suspicions? Would you like us to tell you?

Mr. Stéphane Perrault: You may know better than I do. I'm sure you do.

We do provide, as you know, lists of electors to parties, which have some tombstone information, but parties typically, certainly the larger parties—

Mr. Nathan Cullen: Is "tombstone information" an industry term, or is that your own? It's pretty dark.

Mr. Stéphane Perrault: It's basically name and address information, and, if I'm not mistaken, date of birth.

Mr. Michel Roussel (Deputy Chief Electoral Officer, Electoral Events and Innovation, Elections Canada): No, it doesn't have the date of birth. That's on the—

Mr. Nathan Cullen: So it's name and address. The parties would go further, of course. In the maybe noble experience of trying to identify and speak to voters specifically, we would collect things like voting preference in previous elections and the current one, if we know it, and certainly gender, religious affiliation, and income, if we're able to identify that. We're restricted, but we attempt to buy datasets about the shopping behaviours of Canadians.

Would it be fair to say that an ambitious political party, an aggressive social media-campaigning type party would have quite a bit of specific information about individual Canadians?

Mr. Stéphane Perrault: That also includes information as to whether they vote and how regularly they vote, so it is fairly significant.

Mr. Nathan Cullen: This is the kind of information that Canadians wouldn't necessarily want out in the public or hacked by somebody looking to do harm.

Mr. Stéphane Perrault: At a minimum, we want to have some safeguards around how that information is managed.

Mr. Nathan Cullen: What kind of safeguards do we have right now?

Mr. Stéphane Perrault: We don't know, basically. The only safeguards that exist legally are the ones in the Canada Elections Act, which says that the parties cannot use the data Elections Canada provides except for a federal electoral purpose, which is fairly soft criteria. It has nothing to say about the other information, however, and once our information is commingled with other information, it's hard to say whether it's our information or somebody else's.

Mr. Nathan Cullen: Sure. It's what they call in the industry "data rich", where a profile is not just about a group of voters but about specific individual voters. The recent report by CSE pointed out that there are vulnerabilities within the software systems that exist in Canada.

All political parties—which, as a country, we support through very generous tax rebates—use some of that money to collect data. That's a well-known fact all across the political spectrum. They gather information on Canadians, individually and collectively, and yet are not restricted or required to keep that information safe under the law.

Is anything I've said wrong so far?

Mr. Stéphane Perrault: From a policy point of view, everything's wrong, but from a legal point of view, it's all correct.

Mr. Nathan Cullen: Oh, oh! I may in fact take that quote. That's a good one.

You've recommended, as have we and others—including, I believe, the ethics committee of the House of Commons—that parties fall under the Privacy Act. Bill C-76 would be that opportunity to improve our security and privacy regime when it comes to Canadians.

Mr. Stéphane Perrault: Absolutely. I think the time has come for that, and privacy commissioners around the country are of the same view.

Mr. Nathan Cullen: We've seen other countries go through this. Political parties have had their databases hacked by foreign governments—by hacktivists, as they call themselves—and there have been breaches in France, in the U.S., and in the UK.

Is that all fair to say?

● (1135)

Mr. Stéphane Perrault: It's correct. Also, other countries do regulate the data holdings of parties, and parties are able to function under a set of rules. Even here in Canada, in British Columbia, the provincial-level parties operate under the privacy rules.

Mr. Nathan Cullen: My last set of questions is about social media and ads being purchased by third parties or political parties. Obviously, social media has a great influence right now. Do you believe it should be forced to identify who purchased the ads? It's like someone taking out an ad in The Globe and Mail about an issue in the election.

Mr. Stéphane Perrault: I'll expand a bit on that, if I may. The whole notion of fairness, which is so critical to our electoral process, has moved away from a largely financial perspective of a level playing field to a perspective of being concerned about the ethics of behaviour, especially with the use of social media.

I think we need to look at the notion of electoral fairness in a broader way, and that needs to include greater transparency on how data is used on social media and who purchases it.

Mr. Nathan Cullen: Some things, such as ads or misinformation, get propagated even down to the level of algorithms, because we know that those algorithms can be manipulated to bring forward neo-Nazi propaganda, as we saw in the U.S. We saw disinformation about the last campaign.

Mr. Stéphane Perrault: Yes, I'm not an expert on the algorithms.

I do note that the bill does have some measure in terms of disinformation. It's not that it does not have any measures, but I do think it could go further.

Mr. Nathan Cullen: Thank you, Chair.

The Chair: Now we'll go on to Mr. Graham.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): Thank you, Chair.

I'll echo Ms. May's comment and congratulate you for no longer being acting CEO.

On Sunday, I had the opportunity to vote in the advanced polls in the Quebec election. I went there with my wife and my daughter, who's four years old. There was a whole polling booth for the children where they had to vote on issues, even if they couldn't read, and then they gave them a tattoo saying, "I voted!" My daughter can't read yet, but she still wears it proudly. We can't wash it off. She won't let us.

My question is, within the law and within the act, what powers do you have to educate, especially minors, in that way? Could we, federally, do that kind of thing?

Mr. Stéphane Perrault: Yes, we could. I think there are rules around who gets to attend the polls, but I think we've been flexible in those rules for children in the past. We do allow toddlers at the polls.

I do find that exercise by the DGEQ very interesting. I'm looking at it carefully. We will not roll that out for the next election, but it's a nice way of bringing children in contact with the electoral process.

We currently have a full mandate to educate those under 18. We are using that mandate. Last week I was in Halifax, in Dartmouth, and launched our new civic education tools for teachers to use with teenagers in Canada.

So, we do have a mandate in that regard, and we think that's an important part of our mandate.

Mr. David de Burgh Graham: Okay.

You mentioned that there could be up to 15 months with no by-election taking place. Just for my own clarity, what are the mechanics of that? There are nine months when you don't have to have a by-election. What are the other six months?

Mr. Stéphane Perrault: The Parliament of Canada Act says that a by-election has to be called between 11 days after the CEO receives the warrant from the Speaker and 180 days. That's the outer limit, the six-month period. Then it has to be called. That's the current rule.

What that causes, as you know, is late vacancies triggering mandatory by-elections very late in the cycle. The bill contemplates not to have by-elections in the nine months that precede a fixed-date election. However, as drafted, it means that potentially a vacancy could occur less than six months—six months minus a day—before that nine-month period, and then be carried into the nine-month zone of no by-election.

That was not our intent. I don't think it was this committee's intent. The intent was that if there was a vacancy in the nine months, then a by-election would not be called. We wait for the fixed-date election—not nine months plus six. Everybody was on the same page in terms of the intent, but the drafting doesn't get us there.

Mr. David de Burgh Graham: I understand your point. Thank you for that.

I have more of a philosophical question. I'm not sure what the answer would be, but I'll leave it to you.

Is the structure of Elections Canada and the Elections Act strong enough to survive a partisan appointment to your job?

Mr. Stéphane Perrault: I'm sorry, a partisan appointment to...?

Mr. David de Burgh Graham: If your successor is a partisan appointment for some reason or other, are the structures strong enough to survive that?

● (1140)

Mr. Stéphane Perrault: The premise of that question is one that I just don't accept. I do think Parliament has in the past a long tradition, and traditions are very strong.

But let's accept it just for the sake of argument. What I can tell you is that there's a very strong culture at Elections Canada of non-partisanship and strict rules about activities that Elections Canada staff and field staff can and cannot do. That's embedded in the agency's DNA, so to speak.

Mr. David de Burgh Graham: I appreciate that.

One of the most important changes coming in this bill is vouching. We're going to bring back vouching, a little better than it was under Bill C-23, and restore the use of the voter information card.

How long will it take you to set those up to make sure they're in place? Are those things that can be done fairly quickly, or are they in danger if there's a delay?

Mr. Stéphane Perrault: This is largely a matter of training, of having the proper manuals in place and making adjustments to the format of the voter information card. All of that can be done, and the work on that has been prepared.

Mr. David de Burgh Graham: Okay, thank you.

I'm done.

Mr. Scott Simms: Oh, great.

Indeed, I forgot that last time, but congratulations on the new position, sir. It's well deserved. Congratulations to you all.

I want to go back to the public education aspect of this new bill, because it seems to me that we're returning to what was before Bill C-23, several years ago. I forget the actual date.

Nevertheless, in it you talk about public education. Proposed subsection 18(1), the new amendment to the Canada Elections Act, says that the CEO's outreach activities may target groups of electors that are "most likely to experience difficulties in exercising their democratic rights."

Can you give us more detail about that and explain it to us? Is this overly prescriptive, or does it build in the flexibility you need?

Mr. Stéphane Perrault: I think it is flexible.

It's our role to identify voters who face challenges, and we know who these are. These are young Canadians, Canadians with disabilities and new Canadians. We need to focus our attention there.

There are two angles to this. One is focusing our attention to make sure that these groups have the right information about how to exercise their right to vote, how to register, when to vote and so forth.

The civic education question is a much broader question. It used to be a broad mandate. It was restricted in 2014 to pre-18-year-olds, basically to non-voters.

The bill proposes to remove that barrier so we don't have to worry about what age group we're dealing with when we're talking about the importance of democracy and of voting. We can have products and activities that deal with that, including, for example, groups of students that may have 18-year-olds. We don't have to cut back on our activities because it may hit some older population.

However, that's different from the voter information campaign, which is really the factual approach to understanding the mechanics of voting.

Mr. Scott Simms: Does this fall in line with the recommendation labelled as A5 from your CEO report following the 42nd general election? It noted, "While civic education for youth is obviously important"—which was contained within Bill C-23 at the tail end of deliberations—"it is not less important for electors who lack the basic knowledge about democracy."

Mr. Stéphane Perrault: Yes.

Mr. Scott Simms: Now, who is our target audience?

Mr. Stéphane Perrault: It can include, for example, new Canadians. There's a broader audience than just youth, so that's the point of this amendment. It was made on the recommendation of the former chief electoral officer, and we're happy to see that in the legislation.

The Chair: Thank you very much.

Now we'll go to Mrs. Kusie.

[*Translation*]

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Thank you, Mr. Chair.

Mr. Perrault, thank you for being here today.

[*English*]

This is only my third week on the file, so this is all very new for me. I'm still learning about the bill.

[*Translation*]

After attending a meeting with the minister yesterday, I still have a few questions regarding two parts of the bill.

[*English*]

The first question is in regard to Canadians abroad. Can you please elaborate on the current process that Canadians abroad must use to vote in Canadian elections?

Of course, this piece is very important for us as part of the legitimacy of the electorate of Canada. I would like to know specifically what Canadians are required to do when they would like to cast a vote in an election at present.

● (1145)

Mr. Stéphane Perrault: At present, Canadians abroad need to register. We have an international register of Canadians abroad, and they need to make an application. We maintain that register on an ongoing basis. When people apply, they need to prove their citizenship with a passport. We essentially require evidence of citizenship when you are abroad, for natural and obvious reasons.

In general, under the current rules, Canadians abroad can vote if they've been residing abroad for less than five years and intend to return to Canada. These are two of the basic criteria. There are other exceptions for military, for example, or foreign affairs.

Mrs. Stephanie Kusie: How do you prove intention to return?

Mr. Stéphane Perrault: It's merely a declaration. There's no way to prove it apart from the declaration, which we take in good faith. The return may not materialize, but the point is that at the time of making the application, a person must have the intention to return.

We keep information about those Canadians, and when they're getting closer to the five-year point, or the "anniversary date" as we call it, we ask them whether they've returned to Canada at some point to reside here, which ensures that they are not unnecessarily removed from the international register. If they don't respond or have not returned to Canada, they are taken off that register after the five-year period currently stipulated in the act.

Mrs. Stephanie Kusie: Do you have concerns regarding how the bill is structured with respect to the changes in those requirements? Do you see any problem with the changes?

Mr. Stéphane Perrault: This is largely a key policy decision, to expand the right to vote. I do not stand against that. This is a matter before the courts as well.

From a logistics point of view, we can handle the regime as it is proposed in Bill C-76, so people would be voting at their former place of residence in Canada. We would no longer require an intention to return to Canada. We would no longer track how long they've been away from Canada.

We do not expect a huge number of voters. We've done a number of different extrapolations, and we'll see how that goes. Our expectation is that there will be roughly 30,000 voters from abroad. We have the capacity to handle much more. If I'm not mistaken, we had 11,000 foreign voters in the last election, and we expect it to reach about 30,000.

Mrs. Stephanie Kusie: There is no necessity to demonstrate the intention to return. What would be the requirement for last place of residency? How would they demonstrate that?

Mr. Stéphane Perrault: It would be the information we had on the register when they were registered in Canada, or some information they would provide to us.

Mrs. Stephanie Kusie: What information is required for them to register? Would that include a utility bill, for instance, or is it only what they vouched as their last place of residence? Is there a declaration as well?

Ms. Anne Lawson (Deputy Chief Electoral Officer, Regulatory Affairs, Elections Canada): I'd have to look it up, but I don't think proof is required.

Michel, do you know the answer?

Mr. Michel Roussel: No. If the elector is on the register of electors, he or she may have appeared on our voters list through our administrative sources in the past.

Mrs. Stephanie Kusie: Okay. We're not certain they're going to return, and we're not entirely certain where they may have potentially resided last, but we'll be confident they are Canadian citizens. They are still required to present a piece of information, like a passport. Having served as a consular officer for 15 years in the foreign service, I certainly have confidence in that aspect. They will have to provide a piece of identification that indicates they are Canadian citizens. Is that correct?

Mr. Stéphane Perrault: Yes, that's a requirement we impose based on the powers we have in the act. We want to make sure we have proof of citizenship.

In terms of the register of electors and the location of individuals, as my colleagues have indicated, if they've been previously registered—and there are many ways to be registered in Canada—they may have had to demonstrate their registration, or we may have that information from a provincial or municipal election. There are different ways to be identified under the current rules with respect to residing in a particular location in Canada, and they would not be able to change that.

The Chair: Thank you very much.

[*Translation*]

I will now give the floor to Ms. Lapointe.

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you, Mr. Chair.

I am really happy to be here today. This is the first time I will be asking questions at this committee.

For information purposes, I was wondering how many times you have come to give evidence on Bill C-76.

● (1150)

Mr. Stéphane Perrault: This is the third time. Actually, the last time I appeared officially was regarding this bill. Obviously, when I was appointed, I was asked quite a few questions about Bill C-76. We had already started covering this ground and, a few weeks later, I appeared officially to speak to this bill. So today is the third time.

Ms. Linda Lapointe: Okay, thank you.

Bill C-76 deals with campaign spending limits. It will affect the parties, as well as associations. I wonder if you could provide some more details on this, especially since this is a very hot topic in the bill.

Mr. Stéphane Perrault: There have been a number of changes to spending limits, and the impact of these changes is going to be rather complex.

I would say that third parties are going to be affected the most. First of all, some limits are being imposed on third parties before the election and others during the election. Also, the kinds of activities covered will go beyond simple advertising. It will now cover partisan activities and polls. In addition, third parties will have to produce various reports. They have a fundamentally new system, compared to what they had in the past. The limits are going to increase. The current legislation talks about $150,000, but once the amount is indexed, it amounts to about $350,000, if I'm not mistaken, in the case of a general election. That amount is going up to $1 million, but that will include activities that were not regulated in the past.

Ms. Linda Lapointe: Are you talking about political parties?

Mr. Stéphane Perrault: I am still talking about third parties. That applies to third parties.

Ms. Linda Lapointe: Okay.

Mr. Stéphane Perrault: There are two important changes that apply to political parties.

Ms. Linda Lapointe: Who would be a third party? Can you give me an example?

Mr. Stéphane Perrault: A third party is basically someone who is not a party, candidate or riding association. It could be any ordinary citizen, union, or special interest group.

Ms. Linda Lapointe: Okay.

Mr. Stéphane Perrault: It is usually people who might want—

Ms. Linda Lapointe: —to influence people on one side or the other.

Mr. Stéphane Perrault: Exactly.

A regime for third parties already exists, but it will be much more comprehensive and complex, I must say.

Ms. Linda Lapointe: We were just talking about social media. That is where these people can be very active.

Mr. Stéphane Perrault: Yes, they can be very active on social media. On the other hand, it is important to separate advertising from what is known as organic content on social media. In the case of advertising, whether by a third party, a candidate or a party, they must identify themselves. There are disclosure obligations that apply to social media. That already exists under the current legislation. Under the new provisions, this is going to extend to a period of time before the election campaign. That said, with respect to social media, other elements apply to everyone, such as misinformation.

As for political parties, there are new spending limits set for a specific period before the election campaign. We talked about this last time. These limits will apply beginning at the end of June, if I'm not mistaken, and will apply until the election is called, in an election year. That is new.

There are also measures to ensure that political parties are reimbursed for election expenses related to making their material accessible to people with disabilities. The reimbursement limits are being increased to encourage political parties to convert their existing material into accessible material. This is a new category of reimbursement for party expenses.

In regards to candidates, they have no spending limits before an election is called. They are not subject to that. However, there is a whole new series of rules regarding specific spending that used to be considered personal spending. I am referring to spending related to the need for care related to a disability, whether it is people who support them or for child care. The purpose is to give candidates access to more resources. It will also help them pay for certain litigation expenses they may incur dealing with Elections Canada or the commissioner, in the event of non-conformity or extensions. This will now be separate from the usual political contribution rules. The regime is therefore becoming a little more complex for candidates, but they are not subject to any limits during the period before the election is actually called.

Ms. Linda Lapointe: Thank you.

With respect to the question my colleague, Mrs. Kusie, asked earlier, you spoke about Canadians who live outside the country. How many people are we talking about?

Mr. Stéphane Perrault: We do not know, exactly.

● (1155)

Ms. Linda Lapointe: Would it be 1 million, 500,000, 200,000?

Mr. Stéphane Perrault: I think it's closer to 2 million.

Ms. Linda Lapointe: This includes everyone who works abroad, from the second they plan on returning to Canada.

[*English*]

The Chair: Thank you.

Now we will go to Mrs. Kusie.

[*Translation*]

Ms. Linda Lapointe: It's already done? I had another question.

[*English*]

The Chair: I'm sorry.

[*Translation*]

Mrs. Kusie has the floor.

Mrs. Stephanie Kusie: Thank you, Mr. Chair.

[*English*]

My next question is with regard to the youth registry.

In your opinion, are there proper controls or protective measures being put in place to ensure that the information is not shared with third parties?

Mr. Stéphane Perrault: Yes. That's a good question. It's a concern that's been voiced about the register of pre-voters.

This is information that is going to be retained exclusively by Elections Canada and not given to the parties or the candidates. We are keeping that information, so that we can move them to the register when they are 18, if that's their wish.

Mrs. Stephanie Kusie: Thank you.

In addition, we certainly have some concerns with regard to parental controls for both 14- and 15-year-olds. We're concerned with parents providing consent for their youth to be placed on the registry. Do you have any examples of other registries, at home or internationally, where individuals as young as 14 and 15 have been permitted to sign up to the registry? Were there any security concerns with regard to this?

Mr. Stéphane Perrault: I would be happy to get back to you with that information. I don't believe we have it here.

We know that a number of provinces have registers of pre-voters. The age group may vary, with 16- or 14-year-olds. There's some variance there. I'd be happy to come back with some information on the rules, especially regarding 14- and 15-year-olds and whether there are consent requirements.

As you know, the government bill has taken the approach that 14- and 15-year-olds are able to consent to their inclusion in the pre-register. If that's something you want to consider changing, of course, that's your role.

Mrs. Stephanie Kusie: Thank you.

In the spring, one witness mentioned that, although the proposed legislation prevents foreign entities from financing third parties for their advertising efforts or their partisan activity, in its present state the bill "would allow third parties to avoid the disclosure requirements of the act altogether if they simply chose not to register during an election period."

Do you foresee this to be a problem in future Canadian elections, if the legislation is passed in its current form?

Mr. Stéphane Perrault: I don't think any legislation can deal with the fact that some people may decide either not to register or register under a false identity, which of course would be an offence. They may be caught and there is always the potential for an investigation. The regime has to assume a certain degree of compliance, beyond which things turn to enforcement. Maybe I don't understand the question.

Mrs. Stephanie Kusie: No, you actually sound like a Conservative, Monsieur Perrault. This is similar to our thinking with regard to Bill C-71 and its approach that criminals don't register. Please, continue.

Mr. Stéphane Perrault: That's true of any entity. Parliament sets out an obligation to report, register and disclose, but if those obligations are not met, there are sanctions and investigations to pursue that. That's the way the system operates. I don't know if there's any way around this.

Mrs. Stephanie Kusie: Thank you.

Will the government be able to effectively enforce rules upon third parties that don't register during an election period? Based on your testimony, I'm hearing that it's yes, but not really.

Mr. Stéphane Perrault: I think that's for the commissioner to answer. The commissioner's work is based on complaints, and the timeliness of complaints is critical. If there's timely information, it helps them to move much more quickly. I think this bill would improve his capacity to investigate by providing the power to compel testimony. That's a very important tool.

He has testified before about the challenges of international enforcement. These are not new, and they are not unique to elections. International enforcement is a challenge. This doesn't mean it's not possible, but it is always a challenge.

Mrs. Stephanie Kusie: My last question is largely based on personal interest. If Bill C-76 is passed as it is right now, do you see the potential for any activity similar to what we saw in the last U.S. election with regard to foreign interference?

● (1200)

Mr. Stéphane Perrault: I would say that the bill provides a number of tools to address that. When we think about a foreign state trying to interfere in domestic elections, a sanction in provincial court may not be all that relevant to it. However, those offences give rise to the power to obtain search warrants and production orders, so they're important to empower the investigation.

At the end of the day, whether it's through international diplomacy or supported by investigation, that's how these interventions are addressed, and there are measures in this bill that reinforce the capacity to investigate. I do think it's an important improvement. That's why I said, at the outset, that it's important for this bill to pass before the next election.

The Chair: Thank you.

Now we'll go back to Madame Lapointe.

[*Translation*]

Ms. Linda Lapointe: How much time do I have?

The Chair: You have five minutes.

Ms. Linda Lapointe: Thank you, Mr. Chair.

Mrs. Kusie briefly talked about educating new voters. You also spoke about new Canadians, or new arrivals. How would your plan to explain how they can exercise their right to vote be different from your plan for people who are newly registered on the voters list?

Mr. Stéphane Perrault: That's something we're exploring right now. We know that our provincial colleagues are also looking at new Canadians and elections. We're trying to better co-ordinate our methods for educating them. There are elections at the federal and provincial levels, and some newcomers find this process difficult to navigate. The provinces and the federal government must first co-ordinate how they interact with new Canadians.

Furthermore, we are targeting groups that work with new Canadians. In many cases, these groups are helping newcomers find housing or language assistance. There is nothing about participating in elections. These groups do, however, build trust with newcomers. If we work with these groups and give them the tools to educate new Canadians, it will be easier for us to reach these newcomers.

Ms. Linda Lapointe: Have you observed whether new Canadians from certain countries were more reluctant to vote?

Mr. Stéphane Perrault: I do not have any studies indicating that people from a particular country have more fears about democracy. As far as I know, our office does not have this kind of information.

Ms. Linda Lapointe: Okay.

Earlier you were talking about 14- to 16-year olds. We must educate them on democracy and ensure that they will vote.

When can you educate them and how will you do it?

Mr. Stéphane Perrault: They are the ones who will decide whether to vote. However, it is certainly important to educate them.

Young adults who are 18 to 24 years old when they vote for the first time tend to become lifelong voters. We talk about encouraging young people to vote, but we are essentially creating tomorrow's voters. We want these individuals to vote their whole lives, and not only when they are 18 years old. Conversely, those who do not vote when they are young adults will not vote when they are 40 or 60. There is a critical period.

We think it's too late to start focusing on them if they're 18 or 19 years old and it's their first time voting. We think we should start working with them in grade 9 or 10, when they are between 14 to 17. This is the ideal age. It's possible to start earlier, but there is a critical stage.

Teachers from across the country have developed the tools we have access to, so that they can be included in all of the provincial curricula, whether or not these curricula include civic education courses. These exercises give students a chance to explore on their own what civic engagement and voting mean. We do not tell them what to do or how to act. We encourage them to explore and think. We believe that this method will pique their interest. Unless they're interested, young people will not use the information we give them when they turn 18. We must therefore start by getting them interested, and then educating them, so that they become lifelong voters.

Ms. Linda Lapointe: Have you seen a difference between those who were educated on the democratic process or who got involved when they were in grade 9 or 10, which would be the equivalent of 4th or 5th year of high school in Quebec? Were they more likely to exercise their right to vote?

Mr. Stéphane Perrault: We don't have any way to assess that.

Ms. Linda Lapointe: This should be assessed.

Mr. Stéphane Perrault: We're currently exploring how we assess, which is important. We are investing time and energy, and we want to know whether it has an impact. We are looking at whether it will be possible to measure this impact.

Ms. Linda Lapointe: On another note, I'd like to know whether there's a way to educate Canadians in general about potential fraudulent phone calls or misleading advertisements on social media. Have you found a way to combat this?

● (1205)

Mr. Stéphane Perrault: Yes. This is a multi-faceted issue and it is very important to us. Making sure that Canadians do not get false information on the electoral process—whether it is misinformation or inadvertently incorrect information—is at the core of what we do. We will start by launching an information campaign shortly before the election.

Ms. Linda Lapointe: Do you mean before June?

Mr. Stéphane Perrault: We'll start with registration, in the spring. The campaign will evolve as the election period moves forward. We are getting information out all kinds of ways. That is the first thing.

We will also have an awareness campaign regarding social media and the misinformation or incorrect information they contain.

Lastly, we'll monitor the situation. This applies across the board, but we'll have tools to monitor what's being said on social media. We want to be able to see whether false information is circulating, especially with respect to the voting process, and then intervene to correct that information.

Those are the main tools we plan on using.

Ms. Linda Lapointe: Thank you.

[*English*]

The Chair: Okay, the last person on our scheduled round is Mr. Cullen, for three minutes.

Mr. Nathan Cullen: Thank you, Chair.

Forgive me if you've answered this already. Has Elections Canada sought any legal advice in terms of the restrictions on the pre-writ period as to their ability to withstand a charter challenge?

Mr. Stéphane Perrault: That is not our role, so we—

Mr. Nathan Cullen: Wouldn't you be a litigant in such a challenge, though?

Mr. Stéphane Perrault: Normally, our role in litigation is to be as neutral as possible, so we inform the court and the parties how we administer the rules. In terms of whether they are constitutionally valid or not, the Department of Justice has a role to play. Others may agree or disagree and litigate that, but we are an agent of Parliament. So if Parliament decides to enact a particular rule, it's not for us to challenge Parliament in that regard.

Mr. Nathan Cullen: I didn't mean the question in that sense. You are our in-house election experts. There's a natural tension within, say, the question of speech and fairness that you talked about earlier. Do we allow rules that allow groups or people with more money to have more speech than others, thereby making the determination for voters in an election seem unfair? Let me put it this way: Has the government sought any advice through you as to what that limit should be in terms of money, how long the pre-writ should be and so on?

Mr. Stéphane Perrault: That's not the kind of advice we would provide normally. They have their own lawyers for that. What I see as my role is that I won't cast it in charter language or provide specific advice to this committee or to Parliament. When I see concerns of fairness, when I see concerns that the regulator burden may be too much—which may have charter implications, of course—I tend to raise it in those terms.

Mr. Nathan Cullen: So the fact that you haven't raised them yet, does that mean...?

Mr. Stéphane Perrault: When we discussed the third party rules, I said that this is not an airtight regime, but how far can you go? There's a point when you need to consider freedom of speech. I also raised the point that the rules for third parties provide quite an extensive regulatory burden compared to that imposed on parties and candidates. So I leave that for the committee—

Mr. Nathan Cullen: Sorry, would you describe the burden as higher on third parties than it is on political parties and candidates?

Mr. Stéphane Perrault: Absolutely, because they need to do a report when they register—parties do that as well—but they also need to do a report pre-writ, and they need to do a report on September 15 with fixed-date elections. Parties don't do reports, just in the beginning of the electoral period, and candidates don't have to do that either.

Mr. Nathan Cullen: As it's described right now, the burdens placed on those in civil society who would fall into this third party regime are more onerous than those we place upon ourselves as political parties and candidates. Is that fair?

Mr. Stéphane Perrault: In some respects, yes, but not in every respect.

Mr. Nathan Cullen: In terms of the money—because we've asked the government where the figure came from, where the pre-writ time came from—are there any indications as to the source of those? Is it that other similar democracies use such a limit in terms of money and time?

Mr. Stéphane Perrault: I don't know the nature of the inquiries done by the government policy advisers. On the length of the pre-writ period, I did say that I was happy to see that it existed but in a relatively short period. I would be more concerned, both from a charter point of view and from a balanced point of view, if you had long pre-writ spending limits. Then you risk creating a situation where the government could spend on advertising but not the parties. By having a short pre-writ period, essentially in the summer prior to the fixed-date election, soon thereafter the government's rules on advertising kick in, and perhaps that will be addressed. So there's a bit of balance there that you can achieve with a short pre-writ period.

● (1210)

Mr. Nathan Cullen: Essentially, a new law like this one would restrict, in this case, opposition parties from advertising in a zone in which the government was still permitted to advertise and promote certain policies. I'm trying to understand the scenario you're describing.

Mr. Stéphane Perrault: I'm saying that this law has a pre-writ limit that is sufficiently short so that it minimizes that concern.

Mr. Nathan Cullen: Right. The concern exists but perhaps it's been minimized.

Mr. Stéphane Perrault: Correct.

Mr. Nathan Cullen: I'll just step back for my final moment here to the responsibility of social media agencies. I want to get this testimony right, both with respect to ads—using the social media platforms and the search engine platforms—and how certain news is brought forward, particularly on the search side of things. Do you have any concerns? This bill does not address much of that at all. The way Canadians receive their news now is not how they did 30 years ago, and the algorithms built into the search engines and the social media searches have a bias built within them. I don't mean that in a negative way, but certain news is going to come to me that isn't going to come to you or to another Canadian.

Do you think there needs to be more understanding of how that all works, for us as legislators and for you as somebody who runs our elections?

Mr. Stéphane Perrault: Absolutely. However, this goes well beyond the issue of elections. It's a much larger problem than elections. It's a problem of great magnitude, and we've seen it in other countries, like Burma, where some terrible things have been happening because social media is basically the only way they get their news. There are some biases, as you say.

It's a very large problem. It's one that needs to be taken seriously, but it goes well beyond the electoral mandate.

The Chair: Thank you.

We've finished our regular round. Does anyone have any urgent questions before we go into our other business?

Mr. Simms, go ahead.

Mr. Scott Simms: I want to follow up on what Mr. Cullen talked about. In the context of social media, I think the question is very pertinent to this, in the sense of how people get their news. Now it comes from different channels, and obviously.... It's not so much different channels as the fact that, as Mr. Cullen pointed out, the news you get isn't the same news I have access to. It may be based on usage. It may be based on past searches and so on.

Clause 61 talks about publishing false statements to affect election results. What's captured in here, obviously, is misinformation about citizenship, place of birth, education, professional qualifications and that sort of thing. It's just outright lying about another individual. How does this capture some of what Mr. Cullen is talking about, when it comes to social media? How are you going to police this in the new realm of social media?

Mr. Stéphane Perrault: I think Mr. Cullen's concern was much broader than that.

Mr. Scott Simms: Sure. I'm trying to be more precise here.

Mr. Stéphane Perrault: This is prohibiting a narrow scope of disinformation.

Mr. Scott Simms: Yes, but the arena is quite large.

Mr. Stéphane Perrault: It is quite large. I invite anyone who's interested to read the report of the U.K. House of Commons Digital, Culture, Media and Sport Committee. On July 24, they published the first interim report on disinformation and fake news. It canvasses some of these issues and makes some recommendations.

One of the areas we need to look at down the road is bringing a bit more transparency into the ads that are being posted on social media. Who is behind those ads?

We already have some rules. Perhaps they can be improved over time. As I said, it's a complex issue and it goes beyond elections. Committees often do good work, and this is an example. I invite you to have a look at it.

Mr. Scott Simms: We've practically launched into a whole other study here. Nevertheless, I want to feel that there's a level of confidence that you can exercise some of your concerns about false statements during an election, in either the pre-writ or the writ period.

● (1215)

Mr. Stéphane Perrault: My main responsibility is to make sure Canadians don't receive false information about when and how to register and vote. That's the core of my mandate.

Then there are a number of offences that are either currently in the act or in the bill, such as creating fake websites that pretend to be a candidate or a party. I've recommended that Elections Canada be included in that list as well. It's not currently in the bill. This was in my list of recommendations when I appeared in the spring.

These are additional tools that the commissioner would then use for enforcement. I'll be focusing on the information about the process. He will be focusing on whether there is disinformation that may fall into one of the prohibited categories, either in the current law or in the bill.

The Chair: Thank you.

Mr. Cullen, go ahead.

Mr. Nathan Cullen: I just want to ask a quick question on that. Is it not an offence to create a fake Elections Canada website?

Mr. Stéphane Perrault: There's currently a personation offence that was created in 2014. The commissioner has raised the concern that the personation offence may not be drafted in a way that would sufficiently clearly capture a fake Elections Canada website or document, or that of a party or a candidate. We've made a recommendation to include that.

In the recommendations report, we only spoke about parties and candidates, for a reason that escapes me. It's obviously a mistake on our part. We did not include Elections Canada. When I appeared last time, I suggested that we be included in that list.

Mr. Nathan Cullen: Let's add you to the list.

You used the word "transparency", which hits it on the head when we're talking about the social media aspect. I, or a third party, could take out an ad in the Toronto Star saying that Scott Simms is a terrible human being—truth in advertising in this case, so let's use a better example—

Mr. Scott Simms: You've been reading my Facebook.

Mr. Nathan Cullen: Mr. Bittle is an awful person, and he cheated on his taxes.

Mr. Chris Bittle (St. Catharines, Lib.): How did you find out?

Mr. Nathan Cullen: Well, we now know this.

Is that an offence under the current rules?

Mr. Stéphane Perrault: Under the current rules, there's an antiquated provision about publishing false information about the character of an individual, but you also need to prove that it's with the intent of affecting the elections result, which is always a high—

Mr. Nathan Cullen: Right, "and don't vote for him in October"....

Mr. Stéphane Perrault: Yes, and that is often not there.

Mr. Nathan Cullen: They don't trip that particular wire, so is just saying really awful, untruthful things about somebody, or about a party, during an election or pre-writ legit? Do you have to see that through civil court?

Mr. Stéphane Perrault: Well, it's a difficult line of business you're in.

The regulation of truth on the Internet—and you talked about the charter earlier—is something that is hugely challenging.

Mr. Nathan Cullen: I understand. I guess I'm imagining scenarios, and I want to see if there's any distinction in rules that we have on the books for so-called traditional media versus social media.

Mr. Stéphane Perrault: On that point, there is no distinction, and there shouldn't be, in terms of the content.

Mr. Nathan Cullen: We had Twitter testify before us. They said that some of their ads are purchased anonymously, and that tracing back those ads is something they're not interested in.

Mr. Stéphane Perrault: But that's not about content. I am concerned about that, and I do think there should be some transparency about purchasing ads. If it's regulated advertising, there should be a tag line.

Mr. Nathan Cullen: Just to get that testimony clear, this is both for so-called traditional media, for which there is a tag line, and social media, for which in some cases there is not.

Mr. Stéphane Perrault: That's correct.

Mr. Nathan Cullen: Do you think it should be both, across the board?

Mr. Stéphane Perrault: Well, there is currently a requirement. It doesn't matter—

Mr. Nathan Cullen: Is this even for social media?

Mr. Stéphane Perrault: It's even for social media. The distinction on social media is organic content versus advertising. If you have your own Facebook page and you're saying things about your opponent on that Facebook page, that's not advertising; that's just your—

Mr. Nathan Cullen: What if I'm paying to boost that page, if I'm paying to boost that search? Do you see where the grey...?

Mr. Stéphane Perrault: Yes.

Mr. Nathan Cullen: Sure, it's not going to be an official party website attacking another person, but it wouldn't be hard to believe that either someone internally or an external actor could go after a government or an individual by using a surrogate and paying Facebook or Twitter to do it so that it shows up in our feeds over and over again.

Mr. Stéphane Perrault: That's correct. If they're not running afoul of the specific prohibitions that we have in the act and it's not advertising per se—

Mr. Nathan Cullen: We can't capture that, yet it has the same effect as advertising.

Mr. Stéphane Perrault: Absolutely.

Mr. Nathan Cullen: Should we?

Mr. Stéphane Perrault: I think that's where we hit difficult spots in terms of the balance of how far we regulate people posting their own views on the Internet.

● (1220)

Mr. Nathan Cullen: I understand that, but this is not somebody posting their own views. These are coordinated efforts we've seen out of Russia and other places, and it feels like we're kind of sleepwalking a bit into this thing. We have recent and meaningful examples of partner democracies in which there has been a coordinated non-paid advertising attack on certain candidates or parties.

Mr. Stéphane Perrault: Let me nuance what I just said. The bill we have before Parliament does include rules for campaigning partisan activities that go beyond advertising, so partisan activities would be regulated, but it doesn't mean that the content is prohibited.

Mr. Nathan Cullen: It would be regulated.

Mr. Stéphane Perrault: It would be regulated as part of the spending limits. It's part of how it's funded. Where does the money go to pay for that? It cannot be funded by foreign funds. If it is, then that's an offence, and the commissioner may investigate that.

Mr. Nathan Cullen: That's if it's partisan, if it's pointing at a political party.

Mr. Stéphane Perrault: That's if it's promoting or opposing, yes.

Mr. Nathan Cullen: I'm not suggesting this is easy or casual or light, but the threat has been identified by our own spy agencies, and we look through Bill C-76 to ask how we are addressing the threat. This is at the core of our democracy and is influencing voters. I'm not saying it's easy. If it were easy, we would already have done it. We have just not caught up to the sophistication of those who are looking to influence and, in some cases, corrupt our elections.

Mr. Stéphane Perrault: I think it's a challenge that every democracy is facing. We've certainly been following the discussions around the world—in Europe, in the United States, and in the U.K. around Brexit. Nobody has a silver bullet for that, so there are a range of measures.

One of the things they are concerned about in the U.K. is foreign funding of third parties. One of the recommendations they're making is to create a contribution limit, simply because it's harder for a foreign entity to sprinkle money around in small amounts and not be caught, rather than giving a large amount.

Well, we already have that in Canada. They're also recommending tag lines, but we have that in Canada as well. We already have a number of measures that other countries are looking into—which doesn't mean we have all the answers. It means that we are struggling to find the right balance and exploring that. I think the bill has a number of measures in there.

On our side, we have been collaborating and coordinating our work with security agencies, security partners in Canada: the Communications Security Establishment, CSIS, PCO security, and the RCMP. Starting this fall, we're doing round table exercises to look at various scenarios—working, of course, with the current legal framework.

It's a whole-of-society challenge, however. This is not something that one entity—be it Elections Canada, CSE, or CSIS—can tackle. I suspect we'll be struggling with that for a little while.

The Chair: Mr. Reid has the last intervention.

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): Thank you.

I enjoyed the last exchange. I always appreciate the naive optimism of my colleague from northern British Columbia, who has floated the hopeful thought that the Chief Electoral Officer will be able to solve the problems associated with untrue things being said on the Internet. Once he's done that, I would appreciate his conveying a message to Ukrainian supermodels that I'm not actually interested in dating them and that they can stop sending me information about how to contact them.

Some hon. members: Oh, oh!

Mr. Scott Reid: I probably shouldn't have shared that information.

A previous committee that both Mr. Cullen and I served on was the electoral reform committee, and we had some fascinating testimony. Mr. Cullen will remember this. We were in Vancouver at the time, and we had an American expert on how elections can be interfered with. I forget the name of the professor, but she made the observation that when a well-funded foreign actor interferes—it could be the Russian government, the Chinese government, or maybe a non-state actor who is willing to flout our laws—it's not with the goal of electing candidate X or candidate Y; it is with the goal of making it unclear whether whoever wins has legitimate authority to govern.

This was an argument against electronic voting. If it's no longer clear whether candidate X or candidate Y actually won, if it's no longer clear whether that person has a clear mandate, then they've done their job. That was one of the things that made us decide not to go for electronic voting, which, as you mentioned, is not the same thing as the vote tabulation you're proposing to do.

In looking at your mandate, I don't believe it is trying to resolve the problem of fake news on the Internet. I don't know if anybody can do that. Culturally, I think maybe we have to learn to just do fact-checking on our own, as if we're going through a cultural learning process in that regard. It seems to me that the real danger, from your perspective, is somebody illegally personating Elections Canada and advising people to go to the wrong voting stations, or telling them that the voting times have been changed. I can imagine a number of other things where the true information you're trying to convey is replaced with untrue information, or alternatively, someone is trying to prohibit the true information that you are mandated to provide—how to vote, where to vote, what the voting times are, how you can have access if you are a person who has a disability, and so on.

I just wanted to hear you indicate whether you feel that more needs to be done, or whether you feel that you have the tools you need to make sure those dangers are being minimized at this point, not perfectly but to the extent realistically possible.

● (1225)

Mr. Stéphane Perrault: If I may, I have two points on that. On the fact-checking, it's a very important point. There, I have the tools. One of the things I said we will be doing is have an online repository of all our communications, so that people—including the media and the parties—can check if they're not sure whether something is coming from Elections Canada. It will be on our website. You talked about fact-checking. We need to be the authoritative source, and all of our communications will be transparent. I have invited parties to do the same, because if somebody is passing a message on your behalf as a candidate, and it's not you, you may want to be able to point to your website and say, "Here are my communications." There, I think I have the tools.

I think the point that you mentioned about foreign interference is very important, and this is in the Communications Security Establishment report. Foreign interference is not necessarily about changing the results; it's about sowing doubt as to the results, sowing doubt as to the integrity, and showing that they can play with the integrity of the process, not necessarily changing anything.

That's where I am concerned with the bill as it stands today, and I did make a recommendation in that regard. There is an important provision in the bill that names a new offence, essentially, of cyber-interference with systems that are used in the conduct of an election. However, it requires a demonstration of an intent to affect the result of the election, and that may not be at all the intent. I think that's not adequate. We need that provision to be broader. There is no legitimate excuse.

Mr. Scott Reid: If it was "to subvert or change the outcome of the election" or "to delegitimize the result", would that cover your concern?

Mr. Stéphane Perrault: When I last appeared, I made a recommendation. My view is that if there's no lawful excuse for interfering with a computer used in the delivery of the election, that should be the end of the case made by the Crown. There is no good reason to interfere with a computer unless you're the maintenance person and there's a lawful excuse to be in that system. If you don't belong there, that should be enough to complete the offence.

The Chair: Thank you very much for coming. It's been very helpful to get more questions out.

We'll suspend for a few minutes while we change the witness, and then we'll finish our business.

•

——————————— (Pause) ———————————

•

• (1235)

The Chair: Good afternoon. Welcome back to the 118th meeting of the committee.

For members' information, we are in public.

You'll recall that at the last meeting we decided on a date to commence clause-by-clause consideration of Bill C-76. I open the floor.

Ruby, go ahead.

Ms. Ruby Sahota (Brampton North, Lib.): To say 118 meetings doesn't do us justice. Unfortunately, some of our meetings were prolonged.

I'd like to start by proposing a motion to advance the legislation for which we just had the Chief Electoral Officer here, Bill C-76 and, where appropriate, to propose and approve amendments.

The motion that I propose is this:

> That the Committee commence clause-by-clause consideration of Bill C-76 on Tuesday, October 2, 2018 at 11:00 a.m.;
>
> That the Chair be empowered to hold meetings outside of normal hours to accommodate clause-by-clause consideration;
>
> That the Chair may limit debate on each clause to a maximum of five minutes per party, per clause; and,
>
> That if the Committee has not completed the clause-by-clause consideration of the Bill by 1:00 p.m. on Tuesday, October 16, 2018, all remaining amendments submitted to the Committee shall be deemed moved, the Chair shall put the question, forthwith and successively, without further debate on all remaining clauses and proposed amendments, as well as each and every question necessary to dispose of clause-by-clause consideration of the Bill, as well as questions necessary to report the Bill to the House and to order the Chair to report the Bill to the House as soon as possible.

I'd like to comment on the motion a bit and explain where it's coming from.

In the discussion with the CEO today, it was brought up by the Conservatives that whatever legislation comes forward, when it affects our elections, we should have cross-party support. I would like to point out that we had Elizabeth May here with us today. She put on the record that she is supportive of Bill C-76. We know that the NDP is supportive of Bill C-76. Of course, the Liberals in this committee are extremely supportive of the bill.

The Chief Electoral Officer has been here three times prior to this, regarding this study of the legislation, not to mention the report of the Chief Electoral Officer that we spent numerous hours on. I believe he's probably been here 30 or 40 times on the recommendations. He was here every single day, in his capacity as acting chief electoral officer, to guide us through all of the recommendations that were made.

I also want to give a bit of background as to how we got here.

On May 23, Bill C-76 was given second reading in the House and referred to committee, so on May 23 this bill came before us. As of September 17, the committee had held seven meetings and heard from 56 witnesses on the study of the bill. We had all parties submit hundreds of names of witnesses, and many witnesses declined to appear. The list was quite exhaustive—basically anyone who had any kind of opinion, even down to those who had just run in the various elections, to come before this committee and present. Therefore, we've exhausted quite a bit of our witness testimony here, and of course the person with the most knowledge on the subject matter, the Chief Electoral Officer, has been here several times.

I'd also like to point out that the Harper government's so-called Fair Elections Act made it harder for Canadians to vote and easier for people to evade our elections laws. The Globe and Mail even said, "This bill deserves to die." The Chief Electoral Officer has also been quoted—

• (1240)

Mr. Scott Reid: I'm assuming that your reference is not to this bill, but to that bill.

Ms. Ruby Sahota: I'm referring to Bill C-23, the Fair Elections Act.

Mr. Scott Reid: Okay. I didn't want you to get left there saying something that you weren't trying to say.

Ms. Ruby Sahota: Thank you. I appreciate that.

Bill C-76 has revised a lot of Bill C-23, which was passed in 2014. I will give some context regarding why we are up against some opposition.

The Chief Electoral Officer at the time when Bill C-23 was passed was quoted as saying, "I certainly can't endorse a bill that disenfranchises electors." The government was encouraged, through the many recommendations, to improve and modernize its election law so that more people could vote.

There are many reasons why this legislation has been brought forward, and we've done so in a way where we've continued to work with the Chief Electoral Officer. A lot of the recommendations that have come from the experience of the 2015 election have been inserted into this legislation.

In order to repeal and improve laws to modernize our elections, it was necessary to bring Bill C-76 forward. I know the NDP has been quite eager, like us, to move this legislation through, but many obstacles have gotten in our way. Perhaps some members don't want those disenfranchised by the previous bill, Bill C-23, to participate in this election.

However, I have to point out that although we have a strong democracy, one of the most stable in the world, we have seen, through the recommendations brought forward to us, that there are a lot of improvements to make. A lot of damage was done through Bill C-23, the so-called Fair Elections Act, which has to be corrected.

After the 2015 election, the Chief Electoral Officer made about 130 recommendations on ways to improve how our democracy functions. We did a careful study of those recommendations through consideration by this parliamentary committee and by both houses. We also received input from several experts across the country. After all of that work, the government proposed Bill C-76, the elections modernization act.

As we just heard from the Chief Electoral Officer, this act is really necessary. It's essential that they have this in their hands come October.

Although certain people around this table may feel that the motion I'm bringing forward is halting democracy, I would argue that it's the complete opposite. There is a vital need to modernize our Elections Act and repeal some of the things that have disenfranchised people from voting and completely participating in our democracy. We need to do this as soon as possible so that it can take effect for the next election. To the point that Nathan brought up, the longer we take, the more we lose and the more Canadians lose.

Bill C-76 would make it easier for Canadians to vote, and it would make elections easier to administer and protect. It would also protect Canadians from organizations and individuals seeking to unduly influence their vote. However, as Nathan discussed, we know there are forces beyond this act that we need to further discuss and study. I would propose that at a future date we do all of that and bring all of the necessary actors to help make our democracy even safer. But this bill is a really good start toward doing the things the Chief Electoral Officer has found to be necessary.

One party has stalled us time and time again. We've seen it for several months now. There is an unwillingness to move forward. The government has been given a mandate by the people to move legislation, and although I'm not saying by any means that the committee process is not important, we have seen practices such as this in the past, and in particular when it came to Bill C-23.

● (1245)

If I may remind the committee—some of the members are here, actually. Scott Reid is here, and Blake Richards used to be here, before the House rose for the summer. They were both involved with this committee when Bill C-23 was passed. At that time—I believe it was in the spring of 2014—a very similar motion was brought forward in order to pass Bill C-23 through committee. There was a start date proposed; there was an end date proposed.

If I may, I will read an excerpt from the committee blues at that time. It was moved by the member Tom Lukiwski and the motion that was moved at that time was:

> That the Committee, in relation to its Order of Reference from the House concerning C-23, An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts, initiate a study on this legislation, which will include the following:
>
> That the Committee, as per its usual practice, hear witnesses to be determined by the Committee at a later date;
>
> That the Committee shall only proceed to clause-by-clause consideration of this bill after these hearings have been completed, provided that clause-by-clause consideration shall be concluded no later than Thursday, May 1, 2014 and, if required, at 5:00 p.m., on that day, all remaining amendments shall be deemed moved, and the Chair shall put the question, forthwith and successively, without further debate, on all remaining clauses and amendments submitted to the Committee, as well as each and every question necessary (i) to dispose of clause-by-clause consideration of the Bill, (ii) to report the Bill to the House, and (iii) to order the Chair to report the Bill to the House as early as possible.

It's interesting. At that point, all of the Conservative members, including Scott Reid and Blake Richards, who used to be on this committee, voted in favour of this motion. Right now, in the last few meetings, I've heard some outrage that we can't possibly be thinking about a start date or an end date by any means, that this is not fair and we need to give the committee time.

I would argue that this committee has been given a lot of time. We have essentially adopted a lot of what the CEO has said, and we have spent several meetings on that previously in this committee, not to mention the 53 witnesses we've heard from already, after the legislation was brought to this committee. We've given it ample consideration, so I think it's time that we pass this legislation and allow Canadians to access their right to vote. We need to make sure that we bring forward the important amendments, and the Conservatives have definitely done so. They've brought hundreds of amendments forward. We'd like to get to work on those amendments and begin the clause-by-clause.

Just to reiterate, my motion was that we start the clause-by-clause on October 2. May I also remind the Conservatives that at the meeting we had last Thursday, there was a commitment made that we would start clause-by-clause earlier than that. September 27 was the commitment that was made at that time, so we're allowing for even more flexibility, in order to start by October 2 and then have everything completed by October 16.

Hopefully, when I give up my spot as a speaker after this, I'm not going to hear the type of outrage that we heard last time, because the Conservatives in this committee are quite familiar with this and did exactly the same thing when they brought their so-called Fair Elections Act.

The Chair: Are you finished?

Ms. Ruby Sahota: Yes. Thank you.

The Chair: Thank you, Ms. Sahota.

Now we'll go to Mr. Simms.

Mr. Scott Simms: I'm good, thanks. That pretty much covers it.

The Chair: Mr. Nater, go ahead.

Mr. John Nater: Thank you, Chair.

I'm not sure Mr. Simms has ever said so little in an intervention before.

● (1250)

Mr. Scott Simms: Not since my divorce proceedings....

Mr. John Nater: Yes, that was discussed at the last meeting, I believe, between you and Mr. Christopherson.

I want to say thank you to Ms. Sahota for bringing forward the motion and laying it out. I think it's beneficial when we have our cards on the table and we know what's being discussed so that we can start from the starting point.

I would ask that we have that motion circulated as quickly as possible, so that we have it in written form. I have the gist of it, though, and I do appreciate where that's coming from.

I might begin with a bit of an interesting point, that when Bill C-23 was brought before the committee, the actual date for reporting back to the House was set by Her Majesty's loyal opposition, at the time, so the voting date actually reflected the views of the opposition. Perhaps we could have some agreement on that as well, when the time comes.

I also want to say that, on our side, there are discussions going on, and I appreciate that. I know Mrs. Kusie and Ms. Jordan have had worthwhile conversations, as well as conversations with the minister's office. I think that's a positive development, and I appreciate that. We will be hearing from the minister, I believe, on Thursday at at 3:30, so I look forward to hearing about any undertakings she may have from that standpoint.

I want to go back, though, to a conversation that I brought up at the last couple of meetings about witnesses, in particular the Ontario Chief Electoral Officer. In June, we had the CEO come within days of the Ontario provincial election, in the midst of voter recounts and returning the writs. There is no question that it was a challenge getting him here at that point in time.

As a committee, we cannot compel the testimony of the Chief Electoral Officer. He is an officer of the Ontario legislative assembly, and we cannot compel testimony from an officer of a parliament or a legislature. Obviously, we cannot force Mr. Essensa to come. We can double-check.

My understanding is that we cannot compel, but I don't think he's showing an unwillingness to come. My understanding is that it is a challenge with scheduling. I would still like to hear from him at some point prior to clause-by-clause. I hope he can come at our regularly scheduled time on Thursday. I believe that is when the clerk is hoping that will happen. I'm optimistic and hopeful that this can be achieved. The changes that have been implemented in Ontario do reflect some of the challenges and issues we are debating here, so I think the ability to hear about their successes and challenges on this bill is worthwhile.

I'm not going to express outrage—Ms. Sahota did mention that—but I will point out some concerns that I don't think are insurmountable. I think this committee has worked well in the past. I believe the motion says, "the Chair may", not "the Chair shall", so there is that discretion.

I was not a member of the committee at the time, but a year and a half ago, we had our little.... I don't want to call it a filibuster; I think it was just an extensive discussion. I guess that was back in the spring of 2017.

Ms. Ruby Sahota: There have been a couple.

Mr. John Nater: I want to point out that we did establish the Simms protocol, thanks to the member for Coast of Bays—Central—Notre Dame...or just Newfoundland and Labrador. I do appreciate the nice long titles. Perth—Wellington is nice and short. I can remember it.

I do appreciate that and I hope that there would be a similar type of discretion and debate allowed, arbitrarily limiting it to five minutes for all clauses. Hopefully there will be some discussion there, because there are going to be certain clauses that we can deal with in 30 seconds. Hopefully by that point we will have some commitments among those of us around the table that certain clauses will be passed or rejected fairly quickly. I think there will be certain clauses that, when we come to them, will need a little more fulsome debate. We may not agree on the outcome, but hopefully we can get to the point where we can agree to disagree on certain points and go forward.

I accept where the Chief Electoral Officer was coming from this morning. He and his organization, I believe, have done exceptional work since the last election, to be frank, and prior to that. I appreciate his comments that they're always ready to run an election based on the rules that are in place, based on the last election and using the by-elections as an outcome. I expect that we'll likely have some by-elections this fall. I don't foresee those going past the new year.

It's disappointing, but we can understand where he was coming from in terms of the poll books. It's disappointing in the sense that it would have been nice to have that in. It's certainly understandable that we do not want Elections Canada going ahead with an experiment in the middle of a campaign where things like that are at issue. I do appreciate that, but as we go forward, outside of the context of this particular bill, things like the poll books and making the process that much easier are there and can be undertaken.

We did discuss Bill C-23 a bit. I have what I think was a very interesting quotation about Bill C-23:

> When time restrictions are placed on committees so there is a drop-dead time and when five o'clock comes around all questions are put, we do a disservice in the terms of the principle of democracy at the committee level by not allowing for debate and questions and answers.

Does anybody know who said that? It was Kevin Lamoureux. I always appreciate Kevin's sage wisdom and sage advice.

● (1255)

Mr. Scott Simms: So do we. He's a member of the committee.

Mr. John Nater: He is a member of the committee, a non-voting member. In the time I've been here, I haven't seen him, but I know he does have a heavy workload in the House itself—

Mr. Nathan Cullen: —to keep the status quo.

Mr. John Nater: I know he does yeoman's work in the House itself.

Mr. Scott Reid: Several yeomen's work....

Mr. John Nater: Several yeopeople's work.... I don't know what the gender-neutral terms is, but I do appreciate people who take up that burden.

Ms. Linda Lapointe: Well, we certainly appreciate Kevin.

Mr. John Nater: I do appreciate people who take up that burden, because it is heavy.

Mr. David de Burgh Graham: He is the member most knowledgeable.

Mr. John Nater: On this issue, we may agree or disagree on different clauses, but I do think this committee has worked well. I am proposing an amendment related specifically to the Ontario CEO. Again, I don't have the exact wording of the motion, so hopefully we can work it out with the government in terms of the actual wording.

I move:

> That the motion be amended
>
> a) by adding after the words "That the Committee" the following: "do not"; and,
>
> b) by replacing the words after "of Bill C-76" with the words: "before the Committee has heard from the Chief Electoral Officer of Ontario".

Again, I hope this shows a willingness to move on with clause-by-clause and work together with the committee, but I would like to have the Chief Electoral Officer of Ontario join us for a discussion. If that can be done Thursday morning, hopefully that will be a mission accomplished. We'd have the minister in the afternoon, and then I believe the date that was proposed was October 2 or October 4.

Ms. Ruby Sahota: It was October 2.

Mr. John Nater: It would be October 2, next Tuesday, that we would begin the clause-by-clause, prior to Thanksgiving.

Ms. Ruby Sahota: Do you agree to the rest of the motion?

Mr. John Nater: Well, I think that's going to be discussed.

Ms. Ruby Sahota: Oh.

Mr. John Nater: I think we should give credit where credit's due. I think people are discussing this at levels that aren't in this room right now, so there will be additional discussion held.

Ms. Ruby Sahota: I just have a quick response to that.

We've had the Ontario Chief Electoral Officer.... We've invited him, how many times now? It's been three or four times. He was on the original list as well.

The Chair: It was four times.

Ms. Ruby Sahota: Four times that person has not been available. I don't see what we would gain, necessarily, from having him that we couldn't get by doing some research on our own time.

Also, it's really not reassuring that it's not the only demand you have, and you're not willing to accept the rest and begin clause-by-clause by a certain date either. It would be a lot more reassuring if that was your request, having stated that you're in agreement with the rest of the motion and that was the one thing. As it seems that's not the case, I don't see why we would accept that amendment at this time.

● (1300)

Mr. John Nater: Thank you, Ms. Sahota. I do appreciate that.

My concern has been.... I brought this up prior to the summer recess, and at the last meeting as well. I think that we have a perfect case study of a provincial election, with Ontario, Canada's largest province in terms of population, having undergone an election campaign with some of the changes, or related to the changes foreseen in this bill.

My major concern is being able to hear from the CEO of Elections Ontario, or potentially some of his senior officials, if he is unable to attend.

Chair, I see it is 1:01. I don't know if you'd like me to continue or if it's the will of the committee that we adjourn until Thursday morning, or what the will of the committee is. I leave it in your hands, Chair.

The Chair: I have a question for you. Your amendment is not time-limited, so if the person is not available for three years, it would never come forward. Are you going to propose a time limit?

Mr. John Nater: I'd be open to an amendment for that. I don't know what an appropriate direction would be. I don't get the sense that.... I did look to the clerk and staff first. If he's saying, "I'm not going to come", then we have to deal with that, but if there is a willingness to come and it's just working around a time that we can get him here by video conference or by some alternative....

Ms. Ruby Sahota: May I clarify something for you, Mr. Chair?

I don't think there is any willingness on this side to even entertain this amendment unless the rest of the motion is considered. They have to be willing to approve the rest of the motion for us to consider it, even if maybe we are compelling that witness to come, or whatever. We're not going to entertain it otherwise.

The Chair: Okay. I need the committee's permission for what they want to do, because we're past the time.

For your information, the clerk doesn't think there is any reason in the rules why we couldn't compel the person, just so you know that.

I need the committee's will on whether or not to continue.

Ms. Ruby Sahota: No, we will not continue if the rest of the motion is not adopted.

Mr. Scott Reid: May I say something?

If someone made a motion to adjourn, we could find out whether the committee wants to adjourn or not. Could I give that a try?

I move that we adjourn.

The Chair: Okay. A motion to adjourn is not debatable.

(Motion agreed to)

The Chair: We're adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: http://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : http://www.noscommunes.ca